

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT TRANSMITTAL FORM

PCT

Applicant(s): Dvir et al.
Serial No.: 10/536,555
For: APPARATUS AND METHODS FOR THE SEMI-AUTOMATIC
TRACKING AND EXAMINING OF AN OBJECT OR AN EVENT IN A
MONITORED SITE
International
Filing Date: February 6, 2003
US Filing Date: May 26, 2005
Art Unit: Not Yet Assigned
Examiner: Not Yet Assigned
Confirmation No.: 7476
Customer No.: 27623
Attorney Docket No.: 0002279USU/2279



IAP08Rec'd PCT 14 JAN 2009

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

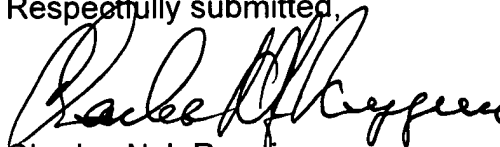
Dear Sir:

We are enclosing:

1. Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181 based on Evidence that a Reply was Timely Filed or Mailed;
2. Appendix (Exhibits I- VI);
Exhibit I- Notification of Missing Requirements dated 10/24/2007,
Exhibit II- Notification of Defective Response dated May 23, 2008,
Exhibit III- Letter to Mail Stop PCT dated June 5, 2008,
Exhibit IV- Declaration and Power of Attorney for Patent Application as filed on June 5, 2008,
Exhibit VI- Decision dated November 10, 2008.
3. Transmittal letter in duplicate; and
4. Postcard.

Please charge any additional fees or credit any such fees, if necessary to **Deposit Account No.: 162-127 in the name of Playtex Products, Inc.** If needed, please charge any deficiency in fees to Deposit Account No. 01-0467 in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,



Charles N.J. Ruggiero

Reg. No. 28,468

Ohlandt, Greeley, Ruggiero & Perle, L.L.P.

One Landmark Square, 10th Floor

Stamford, Connecticut 06901-2682

(203) 327-4500

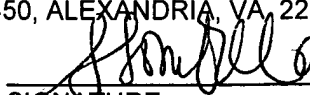
Date: January 12, 2009

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA, 22313-1450, ON JANUARY 13, 2009.

Suzanne Lombardo

NAME



SIGNATURE

1/13/09

DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT TRANSMITTAL FORM

Applicant(s): Dvir et al.

Serial No.: 10/536,555

For: APPARATUS AND METHODS FOR THE SEMI-AUTOMATIC
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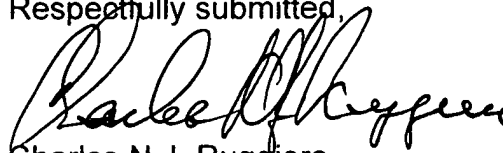
Dear Sir:

We are enclosing:

1. Petition to Withdraw a Holding of Abandonment under 37 CFR 1.181 based on Evidence that a Reply was Timely Filed or Mailed;
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Please charge any additional fees or credit any such fees, if necessary to **Deposit Account No.: 162-127 in the name of Playtex Products, Inc.** If needed, please charge any deficiency in fees to Deposit Account No. 01-0467 in the name of Ohlandt, Greeley, Ruggiero & Perle. A duplicate copy of this sheet is attached.

Respectfully submitted,



Charles N.J. Ruggiero

Reg. No. 28,468

Ohlandt, Greeley, Ruggiero & Perle, L.L.P.

One Landmark Square, 10th Floor

Stamford, Connecticut 06901-2682

(203) 327-4500

Date: January 12, 2009

CERTIFICATE OF MAILING

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Suzanne Lombardo

NAME



SIGNATURE

1/13/09

DATE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Dvir et al.

Serial No.: 10/536,555

For: APPARATUS AND METHODS FOR THE SEMI-AUTOMATIC TRACKING AND EXAMINING OF AN OBJECT OR AN EVENT IN A MONITORED SITE

International Filing Date: February 6, 2003

US Filing Date: May 26, 2005

Examiner: Not Yet Assigned

Art Unit: Not Yet Assigned

Confirmation No.: 7476

Customer No.: 27,623

Attorney Docket No.: 0002279USU/2279

**Mail Stop Petitions
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450
Attention: DO/EO/US**

Dear Sir:

**PETITION TO WITHDRAW A HOLDING OF
ABANDONMENT UNDER 37 CFR 1.181 BASED ON EVIDENCE
THAT A REPLY WAS TIMELY FILED OR MAILED**

In the above captioned application, a Decision indicating that the present application was abandoned was mailed on November 10, 2008. Applicants are timely filing a response to the Decision of November 10, 2008. In an Appendix attached hereto, Applicants are submitting Exhibits supporting this Petition. Applicants state herein:

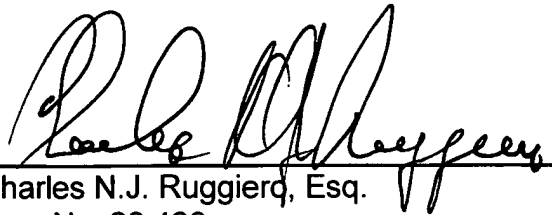
1. In the above captioned application, a Form PCT/DO/EO/905 Notification of Missing Parts (Exhibit I) was mailed on 24 October 2007 indicating that an Oath/Declaration were missing.
2. On 5 March 2008, a Status Request was filed by Applicants because further paperwork had not been received from the USPTO. Specifically, Applicants did not receive the Form PCT/DO/905 that was mailed on 24 October 2007.
3. On May 23, 2008 a Form PCT/DO/EO/916 Notification of Defective Response (Exhibit II) was mailed indicating that the Form PCT/DO/EO/905 Notification of Missing Parts had not yet been completed.
4. On June 2, 2008, the Form PCT/DO/EO/905 Notification of Missing Parts was downloaded from PAIR.
5. On June 5, 2008, Applicants filed a Letter documenting USPTO correspondence (Exhibit III), the required Declaration (Exhibit IV), Form PCT DO/EO/905 Notification of Missing Parts and the Form PCT/DO/EO/916 Notification of Defective Response along with the requisite fee. The June 5, 2008 mailing date of the required Declaration was within the one month of the Mailing date of the Form PCT/DO/EO/916 Notification of Defective Response.
6. On November 10, 2008, the USPTO mailed a Decision (Exhibit V) to the Applicants that the above captioned application was abandoned.
7. A Copy of the Receipt (Exhibit VI), indicating that the Declaration was received, was stamped by the USPTO and received by Applicant on June 11, 2008. A copy of the return postcard that itemized and properly identifies the items being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO. (MPEP503)

In view of the above facts, Applicants respectfully request that the above referenced application be revived.

Respectfully submitted,

January 12, 2009

Date

A handwritten signature in black ink, appearing to read "Charles N.J. Ruggiero", written over a horizontal line.

Charles N.J. Ruggiero, Esq.

Reg. No. 28,468

Attorney for the Applicants

Ohlandt, Greeley, Ruggiero & Perle,
L.L.P.

One Landmark Square, 10th Floor

Stamford, CT 06901-2682

Tel: 203-327-4500

Fax: 203-327-6401

APPENDIX

EXHIBIT I



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/536,555	Igal Dvir	00022779USU/2279

27623
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD, CT 06901

INTERNATIONAL APPLICATION NO.

PCT/IL05/00368

I.A. FILING DATE	PRIORITY DATE
04/03/2005	

CONFIRMATION NO. 7476
371 FORMALITIES LETTER



Date Mailed: 10/24/2007

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371
IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Copy of the International Application filed on 05/26/2005
- Copy of the International Search Report filed on 05/26/2005
- Preliminary Amendments filed on 05/26/2005
- Information Disclosure Statements filed on 09/17/2007
- U.S. Basic National Fees filed on 05/26/2005
- Specification filed on 05/26/2005
- Claims filed on 05/26/2005
- Abstracts filed on 05/26/2005
- Drawings filed on 05/26/2005

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- To avoid abandonment, a surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at **1-866-217-9197** or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

BARBARA A CAMPBELL

Telephone: (703) 308-9140 EXT 217

EXHIBIT II



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/536,555	FIRST NAMED APPLICANT Igal Dvir	ATTY. DOCKET NO. 00022779USU/2279
27623 OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901		INTERNATIONAL APPLICATION NO. PCT/IL2005/000368
		I.A. FILING DATE 04/03/2005
		PRIORITY DATE

CONFIRMATION NO. 7476
371 FORMALITIES LETTER



Date Mailed: 05/23/2008

NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as a Designated Office (37 CFR 1.494):

- Copy of the International Application filed on 05/26/2005
- Copy of the International Search Report filed on 05/26/2005
- Preliminary Amendments filed on 05/26/2005
- Information Disclosure Statements filed on 09/17/2007
- U.S. Basic National Fees filed on 05/26/2005
- Specification filed on 05/26/2005
- Claims filed on 05/26/2005
- Abstracts filed on 05/26/2005
- Drawings filed on 05/26/2005

RECEIVED
MAY 27 2008
OHLANDT, GREELEY
RUGGIERO & PERLE, LLP

Applicant's response filed 03/05/2008 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 10/24/2007 have not been completed.

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.
- Surcharge (for late submission of filing fee, search fee, examination fee or oath or declaration) as set forth in 37 CFR 1.492(h) of \$130 was not received.

SUMMARY OF FEES DUE:

Total additional fees required for this application is \$130 for a Large Entity:

- \$130 Surcharge.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

Registered users of EFS-Web may alternatively submit their reply to this notice via EFS-Web.
<https://sportal.uspto.gov/authenticate/AuthenticateUserLocalEPF.html>

For more information about EFS-Web please call the USPTO Electronic Business Center at 1-866-217-9197 or visit our website at <http://www.uspto.gov/ebc>.

If you are not using EFS-Web to submit your reply, you must include a copy of this notice.

BARBARA A CAMPBELL

Telephone: (703) 308-9140 EXT 217

EXHIBIT III

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT TRANSMITTAL FORM

Applicant(s): Dvir et al.
Serial No.: 10/536,555
For: APPARATUS AND METHODS FOR THE SEMI-AUTOMATIC
TRACKING AND EXAMINING OF AN OBJECT OR AN EVENT IN A
MONITORED SITE
International
Filing Date: February 6, 2003
US Filing Date: May 26, 2005
Examiner: Not Yet Assigned
Art Unit: Not Yet Assigned
Confirmation No.: 7476
Customer No.: 27,623 Attorney Docket No.: 0002279USU/2279

Mail Stop PCT- ATTN:DO/EO/US
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

LETTER

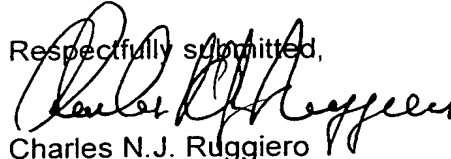
We received a Notification of Defective Response on May 27, 2008 (dated May 23, 2008). This Notification states that the document filed (a Status Request) on March 5, 2008 is acknowledged but the requirements (an Oath/Declaration) set forth in the Notification of Missing Requirements have not been completed. On June 2, 2008, once the paralegal, Suzanne Lombardo reviewed the Notification of Defective Response, she checked PAIR and downloaded the Notification of Missing Documents.

We filed a Status Request on February 29, 2008 (received by USPTO March 5, 2008), because we hadn't received anything from the USPTO for this case since the case was filed on May 26, 2005. We never received the Notification of Missing Requirements. We have had the executed Declaration since October 9, 2005. We have been waiting for the Notification of Missing Requirements to be issued to submit this document.

On June 3, 2008, the paralegal, Suzanne Lombardo contacted Barbara A. Campbell (contact person listed on the Notification of Defective Response) at the USPTO to discuss the situation. When she spoke to Barbara A. Campbell, Barbara A. Campbell advised Suzanne Lombardo to respond to the Notification of Defective Response by filing the declaration accompanied by a letter explaining the situation and a fee of \$130.00. Barbara A. Campbell also stated that she would note this in the file and call Suzanne Lombardo back once she receives the Declaration.

We do not believe that we should be charged any extension of time fee due to the fact that we never received the Notification of Missing Requirements. If we would have received this notice, we would have submitted the Declaration in a timely manner because we have had the executed documents in our office since October 9, 2005.

Respectfully submitted,



Charles N.J. Ruggiero
Reg. No. 28,468
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
Stamford, Connecticut 06901-2682 (203) 327-4500

Date: June 5, 2008

EXHIBIT IV

DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION

Docket No.: 0002279USU/2279
Customer No.: 27623

As below named inventors, we hereby declare that:

Our residences, post office addresses and citizenships are as stated below next to our respective names.

We believe we are the original, and first joint inventors of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**APPARATUS AND METHODS FOR THE SEMI-AUTOMATIC TRACKING
AND EXAMINING OF AN OBJECT OR AN EVENT IN A MONITORED SITE**

the specification of which

(check one) ☐ is attached hereto.

XXX was filed on May 26, 2005 as Application Serial No. 10/536,555
and was amended on _____ (if applicable).

We hereby state that we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

We acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to us to be material to the patentability of this application as defined in Title 37, Code of Federal Regulations, §1.56.

We hereby claim foreign priority benefits under Title 35, United States Code, §119(a) – (d) or (f), or Section 365(b) of any foreign application(s) for patent or inventor's or plant breeder's rights certificate(s) or Section 365(a) of any PCT International Application which designated at least one country other than the United States listed below and have also identified below, by checking the box, any foreign application(s) for patent or inventor's certificate(s) or PCT International application having a filing date before that of the application on which priority is claimed:

<u>Prior Foreign Application(s)</u>			<u>Priority Claimed</u>
<u>PCT/IL2005/000368</u> (Number)	<u>PCT</u> (Country)	<u>3 April 2005</u> (Day/Mon/Year Filed)	<u>X</u> Yes ___ No
_____ (Number)	_____ (Country)	_____ (Day/Mon/Year Filed)	___ Yes ___ No
_____ (Number)	_____ (Country)	_____ (Day/Mon/Year Filed)	___ Yes ___ No

We hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status - patent, pend., abandon.)
_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status - patent, pend., abandon.)

We hereby claim the benefit under 35 U.S.C. Section 119(e) of any United States provisional application(s) listed below:

_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status - patent, pend., abandon.)
_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status - patent, pend., abandon.)


POWER OF ATTORNEY: As named inventors, we hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

NAMES	REGISTRATION NUMBERS
Charles N.J. Ruggiero	28,468
Paul D. Greeley	31,019

SEND CORRESPONDENCE TO:	DIRECT TELEPHONE CALLS TO:
Charles N.J. Ruggiero, Esq. Ohlandt, Greeley, Ruggiero & Perle, L.L.P. One Landmark Square, 10th Floor Stamford, Connecticut 06901-2682	Charles N.J. Ruggiero, Esq. Telephone: (203) 327-4500 Telefax: (203) 327-6401

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF INVENTOR	LAST NAME Dvir	FIRST NAME Igal	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY Ra'anana	STATE OR COUNTRY Israel	CITIZENSHIP Israeli
POST OFFICE ADDRESS	P.O. ADDRESS 86 Akiva Street	CITY & STATE Ra'anana, Israel	ZIP CODE 43263

Inventor's signature  Date August 28th, 2005
Igal DVIR

FULL NAME OF INVENTOR	LAST NAME Shabtai	FIRST NAME Moti	MIDDLE NAME
RESIDENCE & CITIZENSHIP	CITY Rosh Ha'ayin	STATE OR COUNTRY Israel	CITIZENSHIP Israeli
POST OFFICE ADDRESS	P.O. ADDRESS 8 Lachish Street	CITY & STATE Rosh Ha'ayin, Israel	ZIP CODE 48561


Inventor's signature  Date August 10th, 2005
Moti SHABTAI

EXHIBIT V

10 NOV 2008



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

27623

OHLAND, GREELEY, RUGGIERO & PERLE, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901

In re Application of :
DVIR *et al* :
U.S. Application No.: 10/536,555 :
PCT No.: PCT/US02/12443 :
Int. Filing Date: 08 July 2005 :
Priority Date: 19 July 2004 :
Docket No.: 00022779USU/2279 :
For: APPARATUS AND METHODS FOR :
THE SEMI-AUTOMATIC TRACKING :
AND EXAMINING OF AN OBJECT OR :
AN EVENT IN A MONITORED SITE :

DECISION

This is a decision on applicants' "Letter" filed 05 June 2008 which is treated as a petition under 37 CFR 1.181.

BACKGROUND

On 24 October 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a \$130.00 surcharge fee must be provided. Applicants were given two months to respond with extensions of time available under 37 CFR 1.136(a).

On 05 March 2008, a "Status Request" was filed.

On 23 May 2008, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) notifying applicants that the requirements set forth in the Form PCT/DO/EO/905 mailed 24 October 2007 were still required. Specifically, applicants were requested to provide a declaration in compliance with 37 CFR 1.497(a) & (b) and the surcharge fee. Applicants were given one month to respond, or within any time remaining in the Form PCT/DO/EO/905 mailed 24 October 2007.

On 05 June 2008, applicants filed the subject petition along with the \$130.00 surcharge fee.

On 08 September 2008, a "Second Status Request" was filed.

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NOV 12 2008

OHLANDT, GREELEY
RUGGIERO & PERLE, LLP

DISCUSSION

In the response filed 05 June 2008, applicants provided the \$130.00 surcharge fee as required. Applicants also state that a "Declaration and Power of Attorney form executed by Igal DVIR and Moti Shabti were included with the papers filed 05 June 2008.

HOWEVER, AN EXECUTED DECLARATION WAS NOT INCLUDED WITH THE PAPERS FILED 05 JUNE 2008.

Applicants claim that the Form PCT/DO/EO/905 mailed 24 October 2007 was not received until 02 June 2008 when Suzanne Lombardo checked PAIR after receiving the Form PCT/DO/EO/916. Applicants claim that were waiting for the Form PCT/DO/EO/905 to be issued to submit the declaration. Applicants state that they should not be charged an extension of time fee.

It is first noted that the Form PCT/DO/EO/916 provides applicants one month to respond with no extension of time fees. Therefore, the response filed 05 June 2008 (if it contained an acceptable declaration) would not have been charged an extension fee. However, applicants did not submit an executed declaration within this time period. Moreover, the time period with extensions of time under 37 CFR 1.136(a) noted in the Form PCT/DO/EO/905 mailed 24 October 2007 has expired.

As such, the above-captioned application is abandoned.

Regarding applicants' claim that the Form PCT/DO/EO/905 mailed 24 October 2007 was not received, the showing required to establish the failure to receive an Office communication consists of:

- (1) a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO;
- (2) a statement that the Office action was not received at the correspondence address of record;
- (3) a statement that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received; and,
- (4) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed is required.

See § 711.03(c)(1)(A) MPEP.

In this case, applicants state that the Form PCT/DO/EO/905 was not received. Applicants must also provide a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record

with the USPTO. Moreover, applicants must provide a statement that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. Finally, applicants must provide a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed.¹

For these reasons, applicants have failed to establish the failure to receive the Form PCT/DO/EO/905 mailed 24 October 2007.

CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The above-captioned application is hereby **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response establishing nonreceipt of the Form PCT/DO/EO/905 mailed 24 October 2007 must be filed within **TWO (2) MONTHS** from the mail date of this decision. A declaration in compliance with 37 CFR 1.497(a) and (b) must also be provided with any response.

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.


James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302

¹ Section 711.03(c)(1)(A) of the MPEP expands on the docket record requirement and states that:

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

EXHIBIT VI

Application S.N.: 10/536,555 Filed: May 26, 05
Attorney Docket No.: 0002279 USU/2279

RECEIPT OF TRANSMITTED DOCUMENTS

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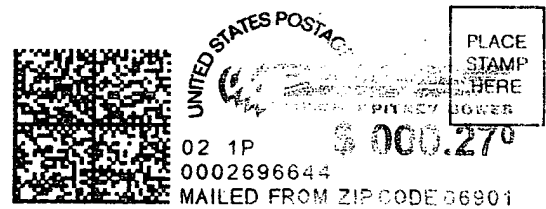
AP12 Rec'd PCT/PTO 05 JUN 2008

Amendment/Response	Brief (in triplicate)	Replacement Drawings	Notice of Appeal
Issue/Pub. Fee	Priority Document	Request for Recon.	IDS/PTO 1449/References
Certified Copy	Terminal Disclaimer	Certificate of Correction	Req. for Ext. of Time
Preliminary Amendment	<u>Declaration</u>	132 Declaration	<u>Transmittal Letter (in duplicate)</u>
Petition	<u>Missing Parts</u>	<u>Assignment w/rec. Cover Sheet</u>	
RCE	Maintenance Fee	Appeal Board's Decision	

X Other: copy of notification of defective response
letter

A check in the amount of \$ 170.00 (#23999) is also attached hereto.

Mailed June 5, 2008 ☐ COM ☒ COEM # EV7743394JW



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